Previous references.

1897-98.
~~100~~
(Rev. Misc)
L.R.

19 19

File No. ~~2649~~ 97-98

Serial Nos. 1 to 7

Later references.

R.N. 49 of 03 24.
Part B sl: 1 to 9.
L.R. 422-1911. Nos 1-3

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B. for

SUBJECT.

~~dispute regarding the Shanabhogi of Sittihally and other villages of Seringapatam Taluk. Ley by appeal No 34 of 1897-98 by Gundappa of Sunabada Hospital Karekoppa pet: 2b: against the decision of the Dy. Commr. Mysore dd No: 8 D 5-6-1896.~~

1. R.635 D. 27-8-1897. from Gundappa Appeals against the order of the D.C. Mysore dismissing the petitioners appeal to his court against the order of the Asstt. Commr. declining to grant him (petr:) his adoptive father's Shanbhogi

2. Nos 635 D. 15-9-97. to Gundappa directs the petr: to submit a copy of the Judgment & decree of the Asstt Commr: Irumamadi (Re-elo Sub Nos: 1241. D 15-11-97. to Gundappa

Petn 692 dt 9-12-97. to D.6 Mysore.
& R/Recd from the respdt

5. Petn 336 no. 735 dt 16-12-1897 to D.6 Mysore
Sollicito report

6. Gr.O. 852F dt 14-3-98. to D6. Mysore
P-1134
Decision the appeal.

No. 685 dt 15-3-1898 to Chandappa
Endorsement rejecting the appeal

8

Before the Government of Mysore.

Appeal No. 34 of 1897-98

Appellant.	Vs.	Respondent.s
Gundaiya		1. Venkatasubbaiya 2. Timmappaiya.

Notices served.
14. 2. 98.

Appellant and 2nd Respondent present.
1st Respondent not present.
Case adjd to 28th Inst; and
parties present informed of the date.

M 14/2/98

28/2/98

Appellant & 2nd respondent
present
appeal dismissed
M 28/2/98

Before the Government of Mysore.

Appeal No. 34 of 1897-98.

Appellants.	Vs.	Respondents.
1. Gundaiya (1st Deft.)		1. Venkatasubbaiya (2nd Deft.)
		2. Timmappaiya. (3rd Deft.)

Dispute regarding the Shanbhogi of Settikere and other villages in the Seringapatam Taluk.

List of papers in English.

(1) Assistant Commr's judgment with decree
(2) Dy Commr's do.
(3) Appeal petition with enclosures.
(4) Official Memorandum
(5) Dy Commr's letter.
(6) Appellant's petition of 6.1.98 with its enclosure (an agreement-1869)
(7) Genealogical Table.

Both the Dy Court &
appellate Court have concurrently held
that the adoption ~~is~~ not
is false. ~~of~~ This is having been
found against appellant
he certainly cannot
receive the right as a
son of Ananda Ramayya
who, by his act of
embezzlement, forfeited
his right. The decisions
appealed against are correct
& this appeal is dismissed

28/2/98

Det 3 No 635

For the dismissed Shankoper and that- though the 1st appellant was given many opportunities of making good the defalcated amount, he did not take advantage of them. The 1st appellant contends that he holds a certificate from the D/ Judge, Court to collect debts due to the deceased wife of the 2nd appellant & has produced copy of the entry in the Diary

Even if the plea of adoption is held valid, it appears that as the 2nd appellant allowed more than 12 years to elapse since the appointment of the respondents. the suit by the 2nd appellant & ~~also~~ much more so by the 1st appellant, became barred in 1891. The suit was filed in 1894.

Held by 2nd counsel

26/11/97

Petition for removal of caveat - call for record - dispose of with reasons - to be framed

30/11/97

Fleet 4/12/97 AR

6 m

4/12/97

Published as No

6/12/97

Subsidiary

(1). Regular appeal
(2). Written arguments paper
(3). The decision of the Dy. Comrs.

5/4 May 97 B.K. 8/9/97

P

Encl

The sub Dn appeal's judgment & decree should be pronounced
(Reclaim the pet[n] Enclosures)
My 12/9/97

(3) Dn Clerk
In all regular appeals the facts of the judgments of both the Courts are pronounced as may be noted in future
My)

S R 19-9-97

Encl[s] put up
11/9/97
Asst Comr's judgment since pronounced

1) In time
2) Stamps sufficient
3) Second appeal against the concurrent decisions of the Dy Comr & the Asst Comr in a regular case
4) Comrl case

The 1st appellant claims the Shanbhogue of Kelathalli Taluka on account of his being the adopted son of the 2nd appellant (since deceased) who was said to be the Cousin of Anantaramiah, the Shanbhogue who was dismissed in 1879 after being convicted of misappropriating Govt money. Both the lower Courts have found that the alleged adoption was false; that it was set up to avoid the disqualification of the 1st appellant being the hereditary servant under Govt

(1)

1897

No. 635 34 97-98

Name of Petitioner Gundia

residing at

Village Sanabada Koppa

Taluk Krishnarajpett

District Mysore

Date of Arzi 27-8-'97

Date of Receipt 27-8-'97

Date of Disposal

No. of Enclosure 8

ABSTRACT.

This is an appeal against the order of the Dy Commr Mysore, dismissing the petr's appeal to this Court against the order of the Asst Comr French Rocks, declining to grant him (petr) his adoptive father's Shanbhoki

States that the Dy Commr did not peruse the records carefully before passing the said judgment and controverts some of the arguments of the Dy Commr.

Prays that the

2

D'Souza's judgment may be
Cancelled, justice being done to
him by passing an order restoring
upon him the Shambhoki which
was enjoyed by his adoptive father

7/9/97

(Read in abstract
4/9/97)

Exc.

1. Copy of D'Souza's judgment No 9 96-97.
2 Kanarese decree copy of the D'Souza's 5th June 97
3 Dittay Copy of the ~~Auction of Puisne Sheristadar~~ French Rocks 2nd Div. Officer's order. No 477
4. Original pet. of the petitioner father, Subbiah ~~Settler~~ Settler Amboor 9/1/68.
5. Copy of pet. of deceased Subbiah, of 9-1-65-
6 ——— do ——— do to of 28-9-61
7 ~~Dittay~~ Copy of the pet. ~~of the Auction~~ of the pet. No 466 of 17-5-93.
8 Dittay Copy of the Auction of Puisne Sheristadar. No 92 of 27-10-88.

No. 935.

635R

27-8-97

Presented in Court

27/8/97

Written on Court Stamp paper 27/8-97

To

The Revenue Council

Mysore Government

Bangalore

Revenue Appeal No: of 1897-98.

1 Gundiah adopted son of Setti Halli Subbiah residing at Sunabada Koppal Krishna Rajapett Talak- } Appellants-

2. Subbiah (deceased) Son of Lutchamiah of Setti Halli Seringapatam Talak-

1. Chikka Venkatta Ramaniah (deceased)
2. Venkatta Subbiah son of deceased 1st Respondent-
3. Timmappiah, Son-in-law of 1st Respondent. } Respondents

This is an appeal brought from the 1st appellant Gundiah on the following grounds, against the Judgments of District Revenue Court of Mysore No 8 dated 5th June 1896-97 and Trench Rocks Sub division No 2 dated 25th February 1895-96

I. The deputy Commissioner without perusing the entire records of the case and failing to examine the rightful hereditary right of the 1st appellant has decided the case against him-

II. The 1st appellant is a rightful heir of the Shanbogacy Ship of 12 Villages of Setti Halli Phirka, Seringapatam Talak as he is the adopted son of deceased Subbiah, brother of Ananta Ramiah who misappropriated Government money-

III. The deceased Subbiah who adopted the 1st appellant, and Ananta Ramiah were cousins-

IV. To the Shanboogy Ship of Shetti Halli Phirka the 1st appellant is the proper heir but not the individuals who are now looking after the said Shanboogy Ship viz, Venkatta Subbiah the 1st Respondent's Son and his Son-in-law Thimmappiah who have no claims or right at all-

V. The 1st appellant submitted several petitions to the deputy Commissioner praying to favour him the said Shanboogy Ship and agreeing to pay up the full amount misappropriated by the said Ananta Ramiah - But at last, as per 1st appellant's petition to the Sub Divisional officer French Rocks on the 8th June 1886 he was personally ordered by the said

25-8-97

Said officer to appear before the Seringapatam Taluk Amildar with Rupees 200/- in cash and for the balance a personal Security of respectable Ryot and that if the above securities are given to the Taluk, the said Sub Divisional officer said that the Amildar has been ordered to appoint the 1st appellant to the office of the said Shanbogy Ship - Accordingly on the 20-12-86 the 1st appellant appeared before the Amildar with the securities but he refused to receive them - And on the 25-9-98 the appellant again produced before the Amildar 300/- Rs in cash which was also rejected - The order of the Amildar No 92 dated 27-9-88 (which is enclosed herewith) for reference - And then - the 1st appellant submitted a petition to the French Rocks Sub Division officer on the 6-2-90 enclosing the amildar's order, to which the sub divisional officer sent an order No 477 (dirty copy) dated 11/12-2-90 to the amildar is also herewith submitted for perusal. The Deputy Commissioner, without perusing the records of the case completely has passed his judgment to the effect that the 1st appellant has failed to produce the amount in spite of several demands

VI. The 1st appellant produces herewith another copy of a petition No 160 dated 17-5-93 which shows that he never failed to produce the said amount -

VII. The Deputy Commissioner says in his judgment that the 2nd appellant entirely abandoned his right as the Shanbogy Ship - but this Shanbogy Ship - descended to him from his ancestors and the 1st appellant is his adopted son - When the 2nd appellant and Ananta Kamiah both divided themselves, the above Shanbogy Ship has fell to 2nd appellant (deceased) Subbiah's share, the truth of this can be proved from the Partition deed which is in the Records of the lower Court - This Partition was not perused by the Deputy Commissioner - But the said Subbiah who was of unsound mind, had, if at all given any deposition which, in

no way, would bar the hereditary right of the Shanbogy, which right has been firmly and indisputably established in the Barabakuti Register. The said deposition will affect only as far as his (the deceased Subbiah's own personal character) but it will not extend or refer to his adopted Son the 1st appellant, Gundappa as per Hindu Law, Land Revenue Code and the Revenue Proceedings.

VIII. That one of the reasons quoted in the judgment of the Deputy Commissioner is that the Respondents have been in the office of Shanbogy from the year 1879. But this reason is not at all just and law to deprive the hereditary right of the 1st appellant Gundappa.

IX. The 1st appellants' claim to the hereditary right of the 2nd appellant (deceased) has been established (as per Hindu Law) as an adopted Son - He the 1st appellant has performed the funeral rites &c of both of the said deceased Subbiah and his wife Ramamma - The 1st appellant has also obtained certificate No 64 dated 21-7-93 from the District Judge, Mysore to receive the debts due to the said (deceased) Ramamma -

X. The Deputy Commissioner says in his judgment that the said deceased Subbiah has refused in his deposition that he has not adopted the 1st appellant but this is far from truth because he never did so in any of his depositions - The 1st appellant begs to submit that the depositions given by the said (deceased) Subbiah both

before

both before the Amildar on the 3rd July 1885 and before the Sub Division officer, French Rock, on the 28th January 1896 respectively may be kindly perused -

Under the above grounds the 1st appellant, Gundappa humbly and earnestly prays the most honorable Council to cancell the deputy Commissioners Judgment and the picture done to him by passing an order to restore upon him the said Shanbogey office to which he is the rightful heir - Dated 27th August 1897.

× (mark) his

The 1st appellant declares that the above is correct and true and nothing but true - × (mark) his

Dated 27th August 1897.

The following records are submitted herewith for perusal -

1. Copy of Mysore District Deputy Commissioners Judgment No 8 of 1896-97 -
2. Diary Copy of the Amildar of Seringapatam Taluk No 92 dated 27th October 1888 -
3. Diary Copy of French Rocks Sub Divisional officers No 477 dated 6th February 1890.
4. The original petition of deceased Subbiah dated 9th January 1868 - No. 615 -
5. Copy of petition of deceased Subbiah of Seringapatam Taluk dated 28th September 1861 & Appeal Receipt -
6. Copy of petition of deceased Subbiah dated 9th January 1865 and appeal receipt -
7. Copy of petition of 1st appellant dated 17th May 1893 - No 160
8. Kaularee decree Copy of the deputy Commissioner Mysore District dated 5th June 1897.

Warrant 18/11/97

635-gg; endt.
Submitted
Sd
19/11/97

See order on petn No 635
M 26/11/97

13

1897 (3)

No. 1241 L.R.P.-9786

Name of Petitioner Egundiah V

Village Sannahadaloppal

Taluk Krishnarajpet

District Mysore

Date of Arzi } 15-11-97
Date of Receipt }

Disposal

No. of Enclosure letter and one Anna Eight Chauras C.R. Stamps for processfees

ABSTRACT

Incalendar to - Wife of petr Endt No 635 dated 16-9-97, petr begs to submit herewith the judgment and decree of the 1st Asst Collr & Deputy French Roads in Revenue case No 2 of 95-96 regarding the Shanbhogi of Sellahally and Nidavilage in the Cauvery Taluk.

17/11/97

Presented in person
15/11/97

No. 1241

Please don't punch the stamps

16/11/97

One rupee eight annas stamps are produced for proof fee.

References

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG. D. No. 12410
DATE 15-11-97

15/11/97

1997-98

1.

2.

*

shows that the stamps have been returned both with

Endt. No. 1241 dt. 9.12.97.

11/2/98.

15.11.97

Ref 892 (4) 9-12-97

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

19-7864

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

Registered No. 635 dated 27-8-97
Received at the Dewan's Office from 15-11-97

Gundlah regarding a Samabada appeal in Krishnarajpet Taluk, appealing against the order of the Deputy Commr. in regarding the re-shanbhogi of Kattahally and other villages of the Nagamangala Dt.

are forwarded, together with its enclosures, to the Deputy Commissioner of the Mysore District for submission of the entire proceedings connected with the case.

The petition with its enclosures should be returned.

By order,

Chief Secretary.

BANGALORE,
9/12/1897

6/12/97

M.G.C.P.B.—25-4-95—1,000

45/28
Pet 336

1897.96

From

The Deputy Commissioner,
Mysore District.

To

The Secretary to the Govt. of Mysore,
Revenue and General Departments.

Dated 16th December 1897

Despatched

Received

General No. 735
No.

Enclosure No. 2 Petitions with enclosures
Two files of records

Submitting the entire records connected with the appeal petitions of Gundish regarding the Shanbhogi of Sethihally in the Seringapatam taluk.

28-12-97

Petitioner to be furnished with a copy of the petition

(1) Bring up for posting
(2) Draw up a Government letter
4/1/98

The case has been duly posted

Posted to 14th February 1898

Petitioner to be furnished with a copy of the petition
2/1/98

No. 735
Enclosure No. Two files of records, Petitions Nos 1241 & 638 with all enclosures.

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,
Dated Mysore, 16 Dec 1897.

To

The Secretary to the Government of Mysore,
Revenue and General Departments.

SIR,

With reference to your official memorandum No. Pet/692 dated 9th instant, I have the honor to submit herewith the entire records connected with the appeal petition of Gundiah residing at Samabada Koppal in the Krishnaraj pete taluk regarding the Shanbhogi of Settihally and other villages in the Seringapatam taluk.

The enclosures of the memorandum under reply are returned.

I have the honor to be,
Sir,
Your most Obedt Servant.

Deputy Commissioner
Mysore District.

Compd:
KLN.

18

GOVERNMENT OF MYSORE

(7)

2 ebr 1886

Genealogical Table

I

Mudlagiraiya

Lakshmayya	Nanjappaiya
Subbaiya 2nd Plff. (Since deceased.)	Anantaramaiya Convicted in 1879.
	Venkatappa (Deceased)
	Gundaiya. 1st Plff. (alleges to have been adopted by the 2nd Plff.)

II

Venkatāramanaiya 1st Defdt. (Since deceased.

Chikka Dasappa. (Appointed in 1881)	Venkatasubbaiya 2nd Defdt.	(Daughter) = Timmappaiya 3rd Defdt.

7/1-

(9)

Proceedings of the Govt of Mysore

L.B.P. - 9786

Read:-

(1) Petition of appeal No. 635 / No. 34 of 1897-98, presented by Gundaiya residing at Sanabadakoppal, Krishnarajapet Taluk, against the judgment and decree of the Dy. Ct, Mysore District in Rev. Reg. appeal No. 8 of 1896-97 on the file of his court dismissing the appeal against the decree of the Asst. Commr of French Rocks in Rev. o.s. No. 2 of 96-96 on the file of this court dismissing the appellants suit for recovery of the Shanbhogi office of Shettihalli in the Seringapatam Taluk.

Plaintiffs
(1) Gundaiya
(2) Subbaiya (deceased)

Defendants
(1) Chick Venkatarama (deceased)
(2) Venkatasubbaiya (son of first defendant)
(3) Timmappaiya (Son-in-law of first defendant)

(2) The records received with letter No. 7358 / 16-12-97 from the Deputy Com., Mysore District.

The facts of the case are as follows.

In 1879 the 1st Plff's father Ananta ramaiya who was the hakdar and officiator Shanbhog of the Shettihalli Convicted of Criminal breach of trust by a public servant and
forka was dismissed from service

forgeries of work
or charging embezzled Govt money
and convicted and sentenced to
rigorous imprisonment. Thereupon
one Chicka Basappa a son of the first defendant and
-connected with Anantakamaiya's
family was appointed to the office
In the enquiry which followed after
Anantakamaiya's dismissal the
2nd Plaintiff Subbia (now deceased)
a Cousin of Anantakamaiya, dis-
-claimed all right to the
Shanbhogi office and left it to the
disposal of Anantakamaiya's wife
and son, who were claiming the office. The 1st Plff
Govindaiya did not set forth his claim
though a notice was issued to him.
In 1892 he began to petition
the Dy Commr, alleging that he was
the adopted son of the 2nd Plff Subbia
and claiming the office. In 1894
he brought a regular suit for the
recovery of the office from the Defts.
The Asst Commr who tried the suit
held that as the 2nd Plff Subbia did
not make any mention of the alleged
adoption when his claims were
enquired into after Anantakamaiya's
dismissal, and as at a later stage
when he put forward the theory of
adoption
he made two inconsistent statements one before the

21

Amildar & the other before the Asstt Co
regarding the performance of Datta homam
himself in the former of which he
said that no homam was made
establishing the fact of adoption
while in the latter he said that
the adoption was made after due
performance of homam, and
that as the plea was first raised
by the 1st Plff in 1882 after his father
Anantaramaiya had been released
from his imprisonment and that as no
adoption deed had been produced
the 1st Plffs' adoption by the 2nd Plff
was not proved. He accordingly dismissed
the Plaintiffs' suit. On appeal the
Dy Commr also held that the
adoption was not proved and
dismissed the Plffs' claim.
Lyendaiya has appealed to Govt
against this decision.

P

No. 3 S 525 / P. 1134 } 14.3.98 / 15

Order thereon:

Both the Dy Commr and the
Asstt Commr have concurrently
held that the adoption set up is
false. This having been found against
the appellant he certainly cannot
recover the right as a son of Ananta
ramaiya who, by his act of
embezzlement

embezzlement, forfeited his right. 22
The decisions appealed against
are correct and this appeal is
dismissed

For Secretary

Draft
Bkn
9/3

11/3/98

To
The Dy Commr, Singapore District,
with records.

2 drafts for approval

15/3/98

23

(8)

15/3/98